Statement of the Honorable John L. Mica Committee on Ways & Means Hearing On Aviation Taxes Wednesday, August 1, 2007, 2:00 p.m. 1100 Longworth House Office Bldg.

Thank you, Mr. Chairman. I appreciate the opportunity to testify before you today.

As Chairman Oberstar has indicated, the Committee on Transportation and Infrastructure recently ordered reported H.R. 2881, the FAA Reauthorization Act of 2007. As we are all aware, the authorizations and taxes now supporting the Airport and Airway Trust Fund (Trust Fund) expire on September 30^{th}.

But that is not the only reason for the urgency with which we testify before the subcommittee today. Any air traveler is painfully aware of the existing problems with the current air traffic control system---the delays, the congestion, and the inefficiencies.

According to the Bureau of Transportation Statistics (BTS), U.S. airlines carried 243.2 million passengers during the first four months of 2007; a 2.2% increase for the same time period in 2006. This included 214.4 million domestic passengers on 3.2 million flights. The FAA is forecasting a *27% increase* in domestic flights by 2016 with a *70% growth* in international operations in that same time period. If air traffic grows according to FAA estimates, delays in the U.S. will *increase 62%* over the period between 2004 and 2014. These delays may cost airlines in excess of *$2 billion.*

According to the FAA, the cost of Next Generation Air Traffic Management System (NextGen) from FY 2008 through FY 2025 will be a total of *$15.2 billion* of additional Facilities & Equipment (F&E) investment. This is in addition to the *$50 billion* that would be needed just to sustain the existing ATC system during these same years. Fiscal years 2008-2014, roughly *$1 billion* more per year is needed. The Joint Planning and Development Office (JPDO) has estimated that by the year 2020 the cost to our economy of *not* implementing NextGen would reach *$40 billion* per year.

The forecasted growth in the industry can only lead to greater delays, congestion, inefficiencies, and costs unless we modernize our technology, equipment and facilities, and transform to the NextGen.

I have pledged to work with Chairman Oberstar on H.R. 2881, the FAA Reauthorization bill and we are doing our best to make the FAA Reauthorization possible. We are working together for a bill that is in the best interest of the aviation system and its users. Therefore, in addition to Chairman Oberstar's recommendations, I have four points that I would like to raise as the Committee on Ways & Means considers important changes to the current Trust Fund tax structure.

<u>First</u>, while I found the FAA's user fee proposal to be intriguing and I applaud them for thinking outside of the box, I am not recommending the adoption of the FAA's proposal to make changes to the current Trust Fund tax structure.

<u>Second</u>, all the theories and estimates related to the ability of the existing tax structure to fund the current system while at the same time supporting NextGen modernization needs are based on the assumption that there will be no changes in the aviation industry.

The Government Accountability Office (GAO) testified before the Committee on Transportation and Infrastructure that the current tax system can *theoretically* support additional modernization spending while funding the other needs of the FAA. However, it is important to understand that the GAO's position is *contingent* on a number of factors:

1) Most of that spending would have to occur <u>after</u> 2010;
2) A consistent general fund contribution of 19%;
3) The future cost of NextGen investments;
4) The volume of air traffic;
5) Future costs of operating the National Airspace System (NAS); and
6) Levels of future appropriations for Airport Improvement Program (AIP).

Recently, CBO testified before the Senate Committee on Finance estimating that the uncommitted balance in the Trust Fund will grow to nearly $22 billion by the end of 2017. CBO also provided estimated total FAA annual spending and trust fund receipts, and assumed funding from the general fund of the Treasury. During its testimony, CBO clarified that "It is important to note that those estimates are based on a set of specified baseline assumptions and *may not reflect what will actually happen* in the future." In particular, they pointed to uncertainty with regard to future trust fund revenues and Congressional appropriations.

It is important to keep in mind that GAO's testimony and CBO's revenue forecasts both assume no changes in law, current air traffic forecasts, or the air traffic control system. However, factors change quickly in the aviation industry, including, for instance, ticket prices which currently drive FAA revenue but do not affect FAA costs. The ability to make NextGen investments is wholly dependent on taxes generating the revenue projected over the next few years. The success of timely implementation of NextGen is reliant on a stable and predictable funding source. The CBO's revenue estimates assume factors that may not prove true.

Therefore, given the nature of the aviation industry and the likelihood of changes in revenue projections over the CBO's projected time period, I believe Congress should carefully consider the best approach to financing the FAA and future air traffic control needs. We must consider which funding mechanism, of the many to be discussed today, best ensures a stable revenue source for the FAA's programs and capital costs.

Third, in light of the significant uncertainties of the future revenue forecasts and the fact that there is no guarantee the FAA will have access to the funding for NextGen when it is needed, I believe the Committee on Ways & Means should explore the creation of an Air Traffic Control Modernization Trust Fund (ATC Mod Trust Fund). Such a Trust Fund would be dedicated to funding air traffic control modernization, transformation, staffing and equipage needs.

Establishing the ATC Mod Trust Fund now would ensure that there is a viable balance in the fund for NextGen investment at the most optimal time needed. The FAA has indicated that the first five years, 2008-12, are when they have the clearest picture of what the funding needs will be and what revenue will look like; this is also when the FAA must make early investments in NextGen to avoid gridlock by the middle of the next decade.

I would propose that funding for the Trust Fund be set at a percentage of the fees and taxes collected from the NAS users. That way, the users will have a clear understanding of where their tax dollars are going.

Finally, I would be remiss if I did not talk about the National Air Traffic Controller Association (NATCA) provision which was added to H.R. 2881. This provision is a poison pill for the entire reauthorization package. The Administration has issued a veto threat on H.R. 2881 based solely on the inclusion of this provision in the bill.

Everyone is well aware of the ongoing back-and-forth between the FAA and the air traffic controllers' union (NATCA). There is much discontent and rhetoric on both sides. Despite the fact that the rules followed last year are the very same rules that have been in place since 1998, NATCA believes they were unfairly treated in the most recent negotiations.

I welcome the opportunity to work with Chairman Oberstar to set up a fair, transparent, and balanced, process that takes into consideration the entire FAA budget while protecting the role of Congress in appropriating funding. Since January I also have been encouraging the parties to settle their differences.

However, I find it patently unfair for Congress to insert itself in any labor negotiation and unilaterally void one contract while reinstating another. It sets a terrible precedent and irresponsibly places the enormous costs of the action on the U.S. taxpayers, other FAA employees, and the users of the aviation system.

Some have argued that the NATCA provision only reinstates the 1998 contract for 135 days. This statement ignores the reality of the situation and the true costs of the provision.

According to the FAA, the rollback language in H.R. 2881 will result in an immediate raise (with back pay) for about 13,000 controllers of about 3.3%. Regardless of the outcome of arbitration, the controllers will keep this raise until they leave the Agency and all future raises will be established off of this higher base. Even after these controllers retire, OPM will continue to pay for the raise through higher pensions every year.

Assuming the negotiation and arbitration process would only take 135 days and given the anticipated schedule for H.R. 2881, the arbitration proceeding will certainly conclude after January 2008. This timing will result in another round of raises for controllers under the 1998 pay system.

The two raises together could have a cumulative impact of 7% or more - in other words, a permanent 7% increase to the FAA's cost base for the controllers, as well as a 7% increase in pension obligations for OPM. Both of these affects are in addition to any changes implemented by the arbitrator. They will form the starting point of an arbitrator's decision, which may result in further increases and costs.

I want to be very clear. In accordance with the NATCA provision, the terms of the 1998 contract will not be in place for just 135 days. They will stay in place until final resolution is reached -- through negations, through arbitration, and until a final agreement is litigated, approved, ratified, and given NATCA's complete stamp of approval.

The impasse process set up by the provision is untested and leaves many issues unaddressed. Based upon this uncertainty and the past actions of the parties, I anticipate years of lengthy and costly litigation at the end of any binding arbitration process. Therefore, because the NATCA provision reinstates the terms of the 1998 contract (and all the raises and premium pay) until a final resolution is achieved; litigation will mean that the terms of the 1998 contract continue while the court case runs its course.

Additionally, according to NATCA, the provision allows the union to ratify those issues that are not the subject of the binding arbitration. Therefore, NATCA could hold up implementation of the arbitration panel's decision until the non-impasse provisions are approved by the Administrator and ratified by the union. Again, the terms of the very generous 1998 contract would stay in place until a final resolution is reached.

The FAA estimates that the real cost of the NATCA provision is closer to $3 billion over 10 years. At the very least, the $1.86 billion dollars in costs savings that were achieve with the implementation of the 2006 contract will be lost. The Congressional Budget Office cost estimate for H.R. 2881 will shed additional light on the true costs of the NATCA provision.

I believe any tax structure established by the Committee on Ways & Means must keep in mind the costs of the NATCA provision and ensure that the FAA is able to raise sufficient revenue to pay for the controllers' salaries, premium pay and retirements. This must be done without negatively impacting other FAA employees and without holding up important safety, capacity, and modernization projects.

In order for the FAA to accommodate increases in air traffic, address growing capacity constraints, and keep up with forecasted demands on and costs of the system, I recommend that the Committee on Ways & Means consider a tax structure that ensures continued robust investment in the Nation's aviation infrastructure. I urge that the revenue derived from this tax structure be proportionately dedicated to the Airport and Airway Trust Fund and a newly established Air Traffic Control Modernization Trust Fund.

Thank you.